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Introduction

Variances may be considered when either the system being repaired existed prior to January 1, 1996, or the property it is to serve was platted prior to January 1, 1996. Variances may be allowed for the following three types of requirements, specified in 19 CSR 20-3.060: minimum horizontal setback distances, as specified in Table 1 of subsection (1)(D), or in the relevant subsections of section (6) for proposed alternative systems; vertical separation distances; and minimum areas for infiltrative surfaces. The variance request form, available at <http://www.dhss.mo.gov/Onsite/varianceapp.pdf> may be required for variances considered by the Onsite Sewage Program.

Duties of Onsite Sewage Program Staff and Office Support

1. Establish criteria for variance review and approval;
2. Review and grant or deny written variance requests;
3. Provide technical assistance with the type and location of onsite systems.

Duties of other DHSS Staff

1. When appropriate, review and grant or deny written variance requests;
2. Provide technical assistance with the type and location of onsite systems;
3. Fulfill common responsibilities of LPHA in counties where OWTS are permitted by DHSS.

Common Responsibilities of Local Public Health Agency

1. Accept written variance requests associated with permit applications, from property owners or their agents and review for completeness;
2. In conjunction with application review and site inspection, review accuracy of the variance request and design layout;
3. Inspect compliance with variance conditions through final approval of system installation.

NOTE: It is the responsibility of the property owner(s) or their agent to:

1. Provide accurate and all necessary information for a variance request associated with an application for a construction permit;
2. Comply with all conditions of any variance granted.

Variances

Minimum horizontal setback distances and minimum absorption areas are clearly stated in the construction standards. The requirements for vertical separation are not as clear. The standards require absorption trenches to be located to maximize the vertical separation distance to the seasonal high groundwater level, bedrock or other limiting layer. Provided a site is otherwise classified as suitable or provisionally suitable for the type of system proposed, the table in EHO Section 5.3 may be used to determine the minimum vertical separation required. The vertical separation requirements are generally to any limiting condition. However, where there is significant potential for groundwater contamination, the required vertical separation to bedrock may be greater than to seasonal high groundwater, restrictive horizons, or slowly permeable layers.

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Except for lagoons, most horizontal setback requirements are based on septic tank effluent and conventional soil absorption systems. Requirements for vertical separation distances and minimum absorption areas are generally based on the type of system.

Variances are considered on a case-by-case basis, and not granted routinely. A variance may be granted based on the site/soil conditions together with the proposed use of filters, higher pretreatment, alternative distribution systems, reduced loading rates, or other methods, or a combination of methods. When it is determined that the system would adequately protect surface and ground waters and prevent nuisance conditions or negative impacts on public health, a variance could be granted. Any necessary variance(s) for a simpler system should be considered against the increased operation and maintenance requirements for an alternative system design that would not require a variance.

Provided a site is eligible for variances, a written variance request can be considered if it is submitted with all required information. See <http://www.dhss.mo.gov/Onsite/permitappforms.html> for a variance request form (see also <http://www.dhss.mo.gov/Onsite/PermitProcess.html>) to be used to submit a request and to review whether all necessary information has been submitted with the construction permit application and variance request.

Variance Guidelines

Although variances are granted on a case-by-case basis, following is some general guidance:

- A sewage tank must be proven watertight as a condition of granting a variance to the tank's setback requirements.
- Variances must not be granted based solely on the lack of space or the site/soil limitations.
- Higher pretreatment should be required for approval of a reduction in infiltrative area.
- A variance should not be granted to reduce the infiltrative area unless the design provides for as much absorption area as practically possible.
- Higher pretreatment, pressure distribution, and/or more than the minimum area should be required for approval of a reduction in vertical separation.
- Restrictive horizons and slowly permeable clay horizons of sufficient thickness may be considered as protective of groundwater and wells that are located upslope from the absorption field.
- Caution should be used when considering variances to well setbacks. If there are concerns about significant groundwater contamination potential, a registered geologist should evaluate the area for geological limitations.
- Seldom should variances be granted for a combination of horizontal setbacks, vertical separation, and/or infiltrative area. If a combination of variances is to be considered, a high level of pretreatment should be used.
- When granting of a variance is based in part on the higher pretreatment provided by a maintenance intensive treatment component, the variance should be conditioned on the property owner keeping a maintenance contract in force as long as the system is in use.

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- Timer dosing controls may be required for pressure dosed systems to equalize flows over time improving distribution and to allow better flow management.
- Other than lagoons, onsite systems may not discharge to the surface. Variances cannot be granted to allow surface discharge, irrigation or land application of effluent from any onsite system.
- A septic tank should be required to precede a lagoon as a condition for approval of lagoon setback variances

AUTHORITY

Subdivision 701.043.1.(7) RSMo
19 CSR 20-3.060 (6)(L)